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Appl. No. 09/911,066  
Amdt. Dated July 2, 2003  
Reply to Office Action of April 4, 2003

**• • R E M A R K S / A R G U M E N T S • •**

The Official Action of October 29, 2003 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment, independent claims 22 and 23 have been changed to recite that the pair of elastomeric polymer members are aligned in a vertical plane and that the compression limiter is out of alignment with the plane in which the pair of elastomeric polymer members are aligned.

Support for this change can be readily found in Fig. 1.

In addition, some minor changes have been made to claims 11 and 17-19 to correct mostly typographical errors.

Entry of the changes to the claims is respectfully requested.

Claims 11, 13, 18, 19, 22 and 23 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,145,847 to Maeda et al.

Claims 12, 17 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Maeda.

For the reasons set forth below, it is submitted that all of the pending claims are allowable over the prior art of record and therefore, each of the outstanding rejections of the claims should properly be withdrawn.

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Favorable reconsideration of the Examiner is earnestly solicited.

The Examiner has relied upon Maeda et al. as disclosing a static gasket that comprises "a first carrier member and a second carrier member, i.e., the at least two metal plates (1, 2)." The Examiner has relied upon Maeda et al.'s second carrier member as being disposed under the first carrier member, and states that Maeda et al. discloses an elastomeric polymeric member (7) disposed on an upper surface of the first end portion of the first carrier member. The Examiner further has relied upon Maeda et al. as disclosing the use of a compression limiter provided adjacent to said elastomeric polymer member.

Maeda et al. is directed to a metal laminate head gasket for an internal combustion engine, and therefore, is not concerned with or related to gaskets that are suitable for sealing electrolyte fluids or use in fuel cells, secondary batteries, condensers, or related applications.

The Examiner has relied on the "rigid synthetic resin layer" disclosed in Maeda et al.'s abstract as reading on applicants' claimed compression limiter. The "rigid synthetic resin layer" is identified by reference numeral 6 in the figures of Maeda et al. and is used to limit the compression of the bead portions 5 - not to limit the compression of the sealing material layers 7.

It is important to appreciate Maeda et al.'s invention in light of the prior art discussed in the "Background of the Invention" section of Maeda et al. As discussed, projecting elements or "bead portions" were provided on cylinder head gaskets to increase the thickness of the gaskets near holds provided therein. A problem followed when the bead portions were compressed or flattened out.

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Various metals plates, stoppers, shims etc. were incorporated to prevent the bead portions from deforming under compression.

Maeda et al.'s invention is the use of a "rigid synthetic resin layer" to withstand the compression forces and prevent the bead portions from flattening out.

The Examiner's attention is respectfully directed to the figures of Maeda et al. and particularly to the space or gap that is provided between bottom of the rigid synthetic resin layer 6 and the upper surface of underlying sealing layer 7.

The gap precludes rigid synthetic resin layer 6 from functioning as a compression limiter between the sealing layers 7, because the metal plate in which recess 51 if formed is thicker than rigid synthetic resin layer 6. That is, the metal plates will compress the intermediate sealing layer before the bottom of the rigid synthetic resin layer 6 ever even contacts the sealing layer 7.

The "pair of elastomeric polymer members (7)" of Maeda et al. and the compression limiter or solid resin layer 6 are all aligned in a common vertical plane as seen in Figs. 2-10

In order to more clearly distinguish applicants' invention over Maeda et al. independent claims 22 and 23 have been amended to recite that the pair of elastomeric polymer members are aligned in a vertical plane and that the compression limiter is out of alignment with the plane in which the pair of elastomeric polymer members are aligned.

A comparison between applicants' Fig. 1 and any of Figs. 2-10 of Maeda et al. will quickly review the differences in alignment between the corresponding elastomer members and compression limiters.

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This difference in alignment of the corresponding elements is directly related to functional differences in Maeda et al. and the present invention which allows applicants' claimed invention to be used as a static gasket for sealing electrolyte fluids, whereas Maeda et al. is limited structurally and functionally as a cylinder head gasket in an internal combustion engine.

If the compression limiter or solid resin layer 6 of Maeda et al. were not aligned between the sealing material layers 7, Maeda et al. would not function properly.

Accordingly, Maeda et al. cannot be interpreted or modified in any manner to read on applicants' claimed invention.

Based upon the above distinctions between Maeda et al. and the present invention, and the overall teachings of Maeda et al., properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon Maeda et al. as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

Moreover, it is respectfully submitted that the Examiner cannot rely upon Maeda et al. as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon Maeda et al. would be improper inasmuch as Maeda et al. does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of Maeda et al. and the outstanding rejections of the claims should hence be withdrawn.

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Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remains outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



Michael S. Gzybowski  
Reg. No. 32,816

BUTZEL LONG  
350 South Main Street  
Suite 300  
Ann Arbor, Michigan 48104  
(734) 995-3110

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